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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,326	02/14/2002	Raphael Louis Mangin	CM2502	8690
27752	7590	03/30/2005	EXAMINER	
THE PROCTER & GAMBLE COMPANY INTELLECTUAL PROPERTY DIVISION WINTON HILL TECHNICAL CENTER - BOX 161 6110 CENTER HILL AVENUE CINCINNATI, OH 45224			FIDEI, DAVID	
			ART UNIT	PAPER NUMBER
			3728	

DATE MAILED: 03/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/075,326	Applicant(s) MANGIN, RAPHAEL LOUIS	
	Examiner David T. Fidei	Art Unit 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4,9,10,13,14,16-26,28-30 and 33-41 is/are pending in the application.
- 4a) Of the above claim(s) 17-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,9,10,13,14,16,28-30 and 33-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore the inclined bottom wall of the dispensing aid recited in claims 1 and 16, along with the container having a false bottom inclined from front to back and a second false bottom inclined from front to back as recited in claim 33, must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-4, 9, 10, 13, 14, 16, 28-30 and 33-41 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The specification at page 5, line 29, through page 6, line 3 defined a substrate dispensing aid as two embodiments. A container having a horizontal bottom with a second false bottom wall on the inside of the container which is inclined from the front to the back of the container (see figure 5a). Alternatively, said substrate dispensing aid may include a container having an inclined bottom wall. The bottom wall itself may be inclined from the front to the back of the container.

However the specification fails to teach or describe how one constructs the bottom wall of the container itself to be inclined from front to back. For example in figure 5a, if one removed the horizontal bottom (for explanatory purposes) and left only the inclined false bottom wall, then the false bottom wall would then become the bottom of the container. Such a container

would not function as described since the inclined second bottom wall would angle the contents backward into the container. In fact, it does not appear possible to construct a container having the bottom wall itself inclined from the front to the back of the container. The container bottom would rest on a horizontal surface (applicant provides no disclosure otherwise) and the incline from front to back would incline the articles exactly opposite the direction desired.

Accordingly, in claims 1 and 16 applicant fails to provide an enabling disclosure of a "dispensing substrate aid" in a way as to enable one skilled in the art to make and/or use such a container that is commensurate with the meaning of the feature as originally disclosed.

As to claim 33 a false bottom is described on the inside of the container which is inclined from the front to the back of the container. In the last 4 lines of this claim recites a second false bottom side wall is inclined from the front side wall to the back side wall of the container. It is not seen where the present disclosure teaches or discloses two false bottoms inclined from front to back.

4. Claims 1-4, 9, 10, 13, 14, 16, 28-30 and 33-41 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

As explained above, it would not have been clear to one skilled in the container art how a bottom wall inclined from front to back would tend to pivot forward the substrates to the front of the box. If anything the opposite would seem true. That is, if in the example given by the examiner making the false bottom wall of figure 5a the bottom wall of the container so inclined, didn't tip the box over as a result of the inherent instability of having an angled front wall greater than 90 degrees with a bottom wall inclined from front to back.

In the figure 5a provided an un-number planar bottom member has what appears to be an inclined bottom (presumably the second false bottom) directly above it and forming a triangle with the back wall and bottom wall. If this interpretation is correct, then the use of the term "second" false bottom appears to be a misnomer. If such is not the case then it appears unclear what the first false bottom is. The bottom of the container is excluded from being a false bottom

since that is contrary to the ordinary meaning of the term as known in the art.¹ Also, the specification provides no description that indicates the container bottom is considered a false bottom or how the container bottom would qualify as such. Hence, the description of a second false bottom is unclear and confusing, as it appears the specification did not reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

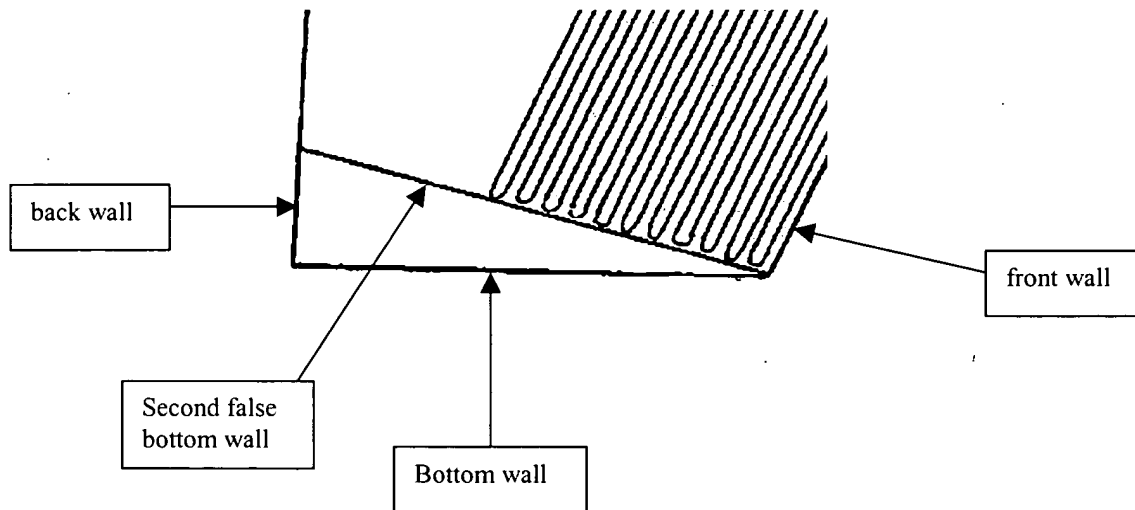
6. Claims 33-41 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term “the second false bottom” appears to have no antecedent basis. It would appear “a” should be substituted for “the”.

Response to Arguments

7. Applicant's thoroughness in replying to the previous Office Action is appreciated. The addition of figure 5a, along with the disclosure at page 5, line 29, through page 6, line 3 further qualifying the claim construction of the “substrate dispensing aid” enhances the record and aids in ascertaining the scope of the language.

In the figure 5a provided an un-number planar bottom member has above it what appears to be an inclined bottom (presumably the second false bottom) that forms a triangle with the back wall and bottom wall. Note the illustration on the next page.

¹ The patents further cited show false bottoms to demonstrate the point. Pub no. US 2003/0164316 discloses a false bottom in paragraph [0009] shown as member 6 in figures 1 and 4, Pub no. US 2003/0102316 describes a false bottom in paragraph [0003], Patent 4,714,985 discloses a false bottom 15 and Patent no. 3,889,855 discloses false bottom 51, see figure 5.



If this interpretation is correct, then the use of the term “second” false bottom is not understood. If such is not the case then it appears unclear what the first false bottom is. The bottom of the container is excluded from being a false bottom since that is contrary to the ordinary meaning of the term as known in the art as noted previously. Also, the specification provides no explanation that indicates the container bottom is considered a false bottom or how the container bottom would qualify as such. Hence, the description of a second false bottom is unclear and it appears the invention lacks two false bottoms.

The substrate dispensing aid is disclosed as alternatively comprising the bottom wall *itself* (emphasis mine) inclined from the front to the back of the container. As explained above, it would not have been clear to one skilled in the container art how a bottom wall inclined from front to back would tend to pivot forward the substrates to the front of the box. If anything the opposite would seem true. That is, if in the example given by the examiner making the false bottom wall of figure 5a the bottom wall of the container so inclined, didn't tip the box over as a result of the inherent instability of having an angled front wall greater than 90 degrees with a bottom wall inclined from front to back.

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In any event, the substrate dispensing aid, along with a container having a false bottom inclined from front to back and a second false bottom inclined from front to back, is not described in the specification in such a way so as to meet the enablement and written description requirements of 35 U.S.C. 112, first paragraph. Accordingly, the above rejections have been applied in response to applicant's amendments.

Conclusion

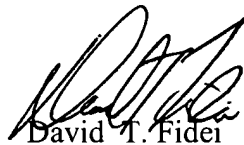
8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David T. Fidei whose telephone number is (571) 272-4553. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David T. Fider
Primary Examiner
Art Unit 3728

dtf
September 23, 2004